

REMARKS

Claims 1, 2, 11, 13, 14, and 28 have been amended herein. Claim 31 has been cancelled. Such cancellation is without prejudice on the merits to further prosecution of this claim in one or more continuing applications. Reconsideration is respectfully requested.

Pending claims 1, 4, 8, 11, 12, 15, 16, 18, 28, 30 and 31 stand rejected under 35 USC §102(e) in light of the alleged disclosure in Bargoot. Claims 6, 7, 20, and 21 stand rejected under §103(e) over Bargoot in view of Douglas et al. Claims 2, 5, 9, 10, 14, 22, and 23 also stand rejected under §103(e) over Bargoot in view of Douglas et al. Because all three of these rejection hinge largely upon the disclosure contained in the Bargoot reference, they will be addressed collectively.

Applicant proposes amendments to independent claims 1, 11 and 28 in order to better and more clearly distinguish the present invention from the cited reference. All three of the independent claims now require that the frame is "movable between a closed position whereby said sample is protected within the compartment and an open position whereby said sample is exposed." Verbatim support can be found in the figures and description as filed.

Bargoot is concerned with a filtration apparatus and method for the separation of microscopic entities from a fluid and subsequent visual or microscopic analysis of the entities separated from the fluid.

In contrast, the present invention is concerned with a method for securely holding biological samples, for sampling automated processing and storage purposes, and with a storage container for this purpose.

Applicant does not consider that the sub-assembly depicted in Fig. 3a of Bargoot could be correctly or reasonably characterized as a "container" as presently claimed. Applicants respectfully submit that the Office is giving an unreasonably broad interpretation to the Bargoot disclosure. Rather, Fig. 3a of Bargoot depicts a slide holder (103) having first and second members hinged together for clamping a filter slide (101) and including elongate apertures (14, 17) in respective members. Similarly the assembly depicted in Fig. 9 of Bargoot does not define a "container" because the slide holder (110) differs from Fig. 3a only in that it includes circular format apertures therein. In both cases, the functional purpose of the holder is to facilitate the flow of fluid across the filter (4) held by the slide (100, 101) and the retention of reagents in the fashion of a cup when one aperture is closed.

In contrast, the claimed storage system requires a recess to be present in the “platform” for accessing surfaces of the filter element, rather than in any purported container. Furthermore, this explains the requirement for the platform to be “withdrawn” from the claimed container to facilitate access, including without manual removal of a closure.

Applicant also wishes to emphasize that the claims to the storage system require the container to include a “compartment” adapted to receive the platform. Bargoot, however, does not teach any element which is clearly or reasonably equivalent to the claimed compartment for receiving the platform. Furthermore, Applicant is proposing amendments to the independent claims to clearly delineate the functional relationship between platform, sample, container and its compartment. See, for example claims 1 and 11 as amended:

...a container including a compartment adapted to receive said platform, **said platform movable between a closed position whereby said sample is protected within the compartment and an open position whereby said sample is exposed**, said platform being configured to be only partially withdrawn from said container.

Similar amendments are proposed for claim 28, taking minor differences of language into account. The protective function of the cover or container was earlier recited in claim 31.

Finally in relation to Bargoot, it is clear that only the top aperture of the slide holder of each embodiment is provided with any form of closure or cap. This is clear in view of Bargoot's requirement to introduce other matter onto the filter, such as the reagent applicator (109) depicted in Fig. 9, and for incubation purposes as described in the paragraph bridging columns 8 and 9 of Bargoot. The lower surface of the filter is therefore not covered at any stage, *i.e.* is exposed, apart from those times during which it is actually being incubated and/or processed. The manual handling-related end uses discussed by Bargoot are clearly distinct from any “storage” end use (as claimed) and for which the Bargoot assemblies would be quickly recognized by a skilled addressee as unsuitable.

In view of the amendments and above remarks, Applicants submit that all of the rejections based in whole or in part on the Bargoot reference have been rendered moot. Withdrawal of the rejections is respectfully requested.

Applicants submit that the application is now in condition for allowance. Early notification of such action is earnestly solicited.

The Commissioner is authorized to charge any fees or credit any overpayments relating to this application to Deposit Account No. 18-2055.

Respectfully submitted,


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